



The Attorney General of Texas

November 14, 1980

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Honorable Wilhelmina Delco
State Representative
House of Representatives
P. O. Box 2910
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Opinion No. MW-273

Re: Whether schools listed in article VII, section 17 of the Texas Constitution are prohibited from receiving appropriations from general revenues for construction

Dear Ms. Delco:

You ask whether the seventeen schools listed in article VII, section 17 of the Texas Constitution are prohibited from receiving appropriations from general revenues for the purposes set out in that constitutional provision. This question arises because the legislature reduced to .0001% the assessment ratio for the ad valorem tax levied by article VII, section 17 of the constitution. Prop. Tax Code §26.03. This ratio will generate less than \$200 per year for the fund supporting seventeen eligible universities. See Attorney General Opinion MW-147 (1980). You do not inquire about and we do not address the constitutionality of the state assessment ratio.

The tax levied by article VII, section 17 provides funds for acquiring, constructing and initially equipping buildings or other permanent improvements at the following institutions of higher education:

Arlington State College at Arlington
Texas Technological College at Lubbock
North Texas State University at Denton
Lamar State College of Technology at Beaumont
Texas College of Arts and Industries at Kingsville
Texas Woman's University at Denton
Texas Southern University at Houston
Midwestern University at Wichita Falls
University of Houston at Houston
Pan American College at Edinburg
East Texas State College at Commerce
Sam Houston State Teachers College at Huntsville
Southwest Texas State College at San Marcos
West Texas State University at Canyon
Stephen F. Austin State College at Nacogdoches
Sul Ross State College at Alpine
Angelo State College at San Angelo

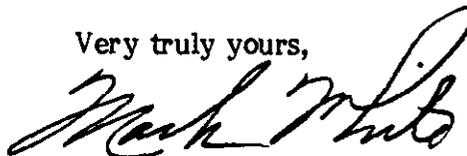
The constitution provides that the funds generated by the tax are to be allocated to these institutions for the twelve-year period beginning January 1, 1966, and for succeeding ten-year periods. A complex formula is provided for the allocation of the tax revenues during each ten-year period. During the first year of each ten-year period, the comptroller is to allocate 85% of funds derived from the tax during that period to the eligible state institutions then in existence. During the sixth year, he is to allocate the remaining 15% to eligible state institutions then in existence. See Attorney General Opinion H-1129 (1978). "All such designated institutions of higher learning shall not thereafter receive any general revenue funds for the acquiring or constructing of buildings or other permanent improvements for which said . . . ad valorem tax is herein provided except in case of fire, flood, storm, or earthquake occurring at any such institution. . . ." Tex. Const. art. VII, §17. (Emphasis added).

We believe the quoted language means that institutions receiving allocations for any ten-year period may not receive general revenue funds for construction for the same ten-year period. The comptroller has a ministerial duty to allocate the available funds. See Attorney General Opinion H-1129 (1978). Even though only a small amount of money is available for allocation, the clear language of article VII, section 17, denies general revenue construction funds to universities participating in that allocation. See Carpenter v. Sheppard, 145 S.W. 2d 562 (Tex. 1940).

S U M M A R Y

Institutions which participate in the allocation of funds under article VII, section 17 of the Texas Constitution may not receive general revenue funds for construction for the same ten-year period.

Very truly yours,



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